

Application No. 09/978,432  
Reply to Office action of December 22, 2004

Claims 1 - 15 are pending in the applications and all have been rejected. None of the claims are amended. Reconsideration of the application is requested in view of the following remarks.

### Section 102 Rejections

The rejection of claims 1-3, 5-10, and 13-15 on grounds that Dharanikota et al. anticipates them is respectfully traversed as being in error. In support of the rejection of claims 1 and 9, the examiner sets out the following reasoning in paragraph 4 of the action. This same reasoning is implicit to the rejections of the remaining claims.

Dharanikota disclosed [sic] a method of transmitting packet-switched data in a network having a plurality of nodes therein, the method comprising the steps of: defining an ingress rate restriction for each of at least two nodes of the plurality of nodes, the ingress rate restriction limiting the amount of data that may be transmitted from the respective node on at least one channel of the network; defining one egress rate restriction of each of the at least two nodes of the plurality of nodes, the egress rate restriction limiting the amount of data that may be transmitted to the respective node on the at least one channel of the network (page. 1, paragraph.12); monitoring the amount of data transmitted from and to a first node (page.6, paragraph 54); and disallowing at least a portion of one of an attempted data transfer from and to the first node when one of the respective ingress rate registration and egress rate restriction would be violated by the attempted data transfer (page. 6, paragraph 59).

The examiner provides no page or paragraph references within Dharanikota et al. to support the statements that Dharanikota et al. disclose ingress and egress rate restrictions on nodes of a network. The page/paragraph cites that the examiners gives are to passages that discuss a single network element, such as network element 200 shown in FIG. 2. For example, paragraph 12 explains that the invention is "directed to a network element (e.g., an edge router, core router, or transit router, collectively, a routing element) that is organized as a plurality of terminating line cards or TLKs interconnected via a switch fabric capable of supporting virtual ingress/egress pipes (VIEPS) between transmitter cards (ingress cards) and receiver cards (egress cards)." The TLKs are located within the routing element. Egress and ingress through the switching fabric within an element of a network is being controlled. No mention is made in paragraph 12

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of controlling egress and ingress between nodes on a network. Similarly, paragraphs 54 and 59 do not concern network nodes. Paragraph 54 talks about using counters on the egress and ingress TLKs, and paragraph 59 describes marking packet streams within the network element using a three-color marker (TCM).

It is respectfully submitted that Dharanikota et al. do not teach or disclose what the examiner states they disclose. They disclose only limiting packet flows across a switch fabric between line cards in a router. There is no reference in it to restricting ingress and egress between interconnected nodes of a network.

Therefore Dharanikota et al. do not disclose each and every element of claims 1 and 9, and therefore cannot anticipate claims. The rejection is legally in error for at least this reason. The rejection dependent claims 2, 3, 5-8, 10 and 13-15 are also in error for at least this same reason. Given this error, other errors in the rejection of the dependent claims have not been addressed, though the right to complain of those errors is reserved.

#### Section 103 Rejections

The rejections of claims 3, 4, 11 and 12 as being anticipated by the combination of Dharanikota et al. and Kodialam et al. appear to be premised on the same erroneous reading of Dharanikota et al. discussed above, and are in error for at least this reason. The right to complain of other errors in the rejection is reserved.

Note that the detailed reasoning provided by the examiner in the action references McDysan rather than Kodilam et al. It is not clear which reference the examiner is relying on. However, given that the rejections rely on the misinterpretation of Dharanikota et al., this error is not addressed.


In conclusion, the rejections of all pending claims are in error and should be withdrawn. Allowance of the application is respectfully requested.

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Please charge deposit account no. 13-4900 of Munsch Hardt Kopf & Harr, P.C. any additional fees associated with this paper.

Respectfully submitted,

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